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P.O. BOX 1450  
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DAVIDSON, DAVIDSON  
& KAPPEL, LLC  
485 SEVENTH AVENUE/14TH FLOOR  
NEW YORK NY 10018

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OFFICE OF PETITIONS

In re Application of:

Frank

Filed: 26 October, 2000

Application No. 09/696,812

Docket No.: 600.1095

ON PETITION

This is a decision on the petition filed herein on 17 December, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application as abandoned due to unintentional delay.

For the reasons set forth below, the petition is **DISMISSED as moot**.

BACKGROUND

A review of the record reveals:

- Petitioner failed to respond timely and properly to the final Office action mailed on 26 August, 2002, with reply due (absent extension of time) on or before 26 November, 2002;
- over a 22 November, 2002, certificate of mail (on the transmittal form) Petitioner filed an after-final amendment (see: 37 C.F.R. §1.116) on 29 November, 2002--however, the Examiner deemed the amendment not a proper reply<sup>1</sup> to the final Office action, refused to enter it, and mailed an Advisory Action on 19 December, 2002, so notifying Petitioner;
- the instant application went abandoned after midnight 26 November, 2002;
- no Notice of Abandonment was mailed before the original petition was filed on 30 May, 2003, and that petition to revive under 37(b)37 C.F.R. §1.137(a), and due to the

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<sup>1</sup> The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

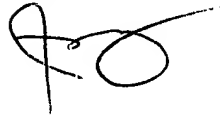
allegations of timely filing also treated under 37 C.F.R. §1.181 as a request to withdraw the holding of abandonment, and the petition(s) were dismissed on 9 July, 2003;

- a petition under 37 C.F.R. §1.137(b) was filed on 11 September, 2003, and granted on 22 December, 2003, and therein Petitioner was notified that: **Petitioner's brief, compliant with the regulations at 37 C.F.R. §1.192, is due within two (2) months of the date of that decision.**

Thus, the application was revived and the instant petition is **dismissed as moot.**

**The instant application is forwarded to Technology Center 2800 to await the filing of Petitioner's Brief (with fee) on appeal.**

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions